

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

ZAUDERER *et al.*

Appl. No.: 09/987,456

Filed: November 14, 2001

For: ***In Vitro* Methods of Producing and
Identifying Immunoglobulin
Molecules in Eukaryotic Cells**

Confirmation No.: 6770

Art Unit: 1639

Examiner: Epperson, J.D.

Atty. Docket: 1821.0070004/EJH/T-M

**Tenth Supplemental Information Disclosure Statement
Filing Under 37 C.F.R. § 1.97(d)**

Mail Stop Amendment

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Listed on accompanying Form PTO/SB/08B are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98. The numbering on this Tenth Supplemental Information Disclosure Statement is a continuation of Applicants' Ninth Supplemental Information Disclosure Statement filed on August 8, 2007, in connection with the above-captioned application.

Applicants submit herewith as Document **NPL8**, an Office Action mailed on October 16, 2007, in the related co-pending U.S. Patent Application No. 10/465,808.

Applicants submit herewith as Document **NPL9**, a copy of a Declaration Under 37 C.F.R. § 1.132 by Dr. Walter J. Storkus, signed on October 26, 2007, along with

Exhibits A1-A3, as filed in related co-pending U.S. Patent Application No. 10/465,808 on October 30, 2007. Applicants note that Dr. Storkus addressed similar issues in the Declaration submitted herewith as Document **NPL9** as in the Declaration Under 37 C.F.R. § 1.132 of Dr. Storkus submitted on July 21, 2005, in the above-captioned application. Document **NPL9** also clarifies precisely when the antibody selection technology was first presented to Dr. Storkus. Specifically, Dr. Storkus indicated that he learned about the claimed technology on August 14, 2002, which was after, but near the time of filing of the present application. The fact that Dr. Storkus did not have a reasonable expectation of success for a two-library immunoglobulin selection system in eukaryotic cells even after the filing date of the present application is consistent with Applicants' arguments regarding the non-obviousness of the claimed invention.

The Examiner's attention is directed to the following co-pending U.S. Patent Application, which is directed to related technical subject matter:

Application No. 11/892,027, inventors Zauderer *et al.*, filed August 17, 2007, not yet published, cited herein as document **NPL10**.

A copy of document **NPL10** is not provided in accordance with the U.S. Patent and Trademark Office OG notice of October 19, 2004, which states: "the requirement in 37 C.F.R. § 1.98(a)(2)(iii) for a legible copy of the specification, including the claims, and drawings of each cited pending U.S. patent application (or portion of the application which caused it to be listed) is sua sponte waived where the cited pending application is stored in the USPTO's IFW system."

Where the publication date of a listed document does not provide a month of publication, the year of publication of the listed document is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the month of publication is not in issue. Applicants have listed publication dates on the attached IDS Form based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

This Information Disclosure Statement is being filed after the mailing date of the a Final Rejection. Submitted electronically herewith is our credit card payment in the amount of \$180.00 for the fee under 37 C.F.R. § 1.17(p).

Statement under 37 C.F.R. § 1.97(e)(2). I hereby state that, to my knowledge after making reasonable inquiry, no item of information in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than

three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

It is respectfully requested that the Examiner initial and return copies of the enclosed IDS Forms, and indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

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Date: November 16, 2007

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